

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

INSTITUTE FOR CREATION RESEARCH	§	CIVIL ACTION NO.
GRADUATE SCHOOL, etc.,	§	
<i>Plaintiff,</i>	§	
v.	§	
TEXAS HIGHER EDUCATION	§	
COORDINATING BOARD, et al.,	§	1:09-CV-382 SS
Defendants.	§	

Plaintiff's List of Potential Witnesses, including Expert Witnesses

TO THE HONORABLE SAM SPARKS, U.S. DISTRICT JUDGE PRESIDING:

Now comes the Institute for Creation Research Graduate School ("ICRGS"), plaintiff, and files this List of Potential Witnesses, including ICRGS's potential witnesses who may provide expert opinions, usually within a context of mixed fact-and-opinion testimony. Names with a star (*) indicate witnesses who are likely to provide at least some opinion testimony.

I.

1. *Dr. Randy Guliuzza, biosciences (e.g., medical science, aerospace/military medicine, human biology, public health) & engineering science (e.g., construction technology), as well as Christian education, as well as the scientific method (e.g., how it is employed in medical MRI technology)
2. *Dr. John Morris, ICRGS geoscience, including paleontology & science education for the private sector Christian education community that appreciates the Biblical creationist viewpoint, as well as geoscience research relevant to the worldwide Flood (e.g., Mount Ararat, *The Genesis Flood*), as well as catastrophist geology in general (e.g., Mount St. Helens, Grand Canyon), as well as technical science research by young-earth creationists (e.g., ICC, RATE, CRS/CRSQ, CENTJ, etc.), as well as Christian education in general; also evolution theory as applied to geosciences

3. *Dr. Patricia Nason, ICRGS science education, e.g., science education for Christian schools, science education for the private sector Christian education community generally, science education in secular schools (especially as compared to private schools which are institutionally committed to a Biblical creationist viewpoint), accreditation issues (e.g., TRACS, SACS, USDOE), evolution theory as applied (in evolutionist schools) to science education.
4. *Frank Sherwin, biosciences (e.g., parasitology), bioscience education, especially science education for Christian schools, Christian education in general, evolution theory as applied to biosciences
5. *Dr. Henry Morris III, CEO (perhaps by business records affidavit, on ICRGS's history and administration; also Christian education in general, as well as accreditation issues, e.g., TRACS and the U.S. Dep't of Education)
6. *Dr. Charles McCombs, ICRGC chemistry, e.g., biochemistry & chemical engineering, entropy
7. *Dr. Steven Austin, ICRGS geosciences, including petroleum, coal geology, flood geology, recent developments in sedimentary rock geology, evolution theory as applied to geosciences
8. *Dr. Jeff Tomkins, ICRGS biosciences (including DNA science and biology, e.g., connective tissue discovered in dinosaur bones), evolution taught as science, science community politics within the secular science community, evolution theory as applied to astro-geophysics
9. *Dr. Larry Vardiman, ICRGS astro/geophysics (especially atmospheric sciences), including meteorology, hurricanes, climatology, e.g., global warming
10. *Dr. Nathaniel Jeanson, ICRGS bioscience, e.g., stem cell biology and stem cell research
11. *Eileen Turner Spragins, CFO (probably by business records affidavit, limited to statements about ICR's non-receipt of any government funding in or from the State of Texas)
12. *Dr. John Eidsmoe, attorney's fees (using FRCP Rule 54(d)(2) procedure, with emphasis on his familiarity with 1st Amendment freedom litigation in

general, including 1st Amendment litigation as particularly applied to Christian education freedoms, as well as aspects of totalitarian government-imposed restraints on free speech and other aspects of communication censorship)

13. all defendants in this litigation (i.e., Raymund Paredes, Lyn Bracewell Philips, Joe B. Hinton, Elaine Mendoza, Laurie Bricker, A. W. ("Whit") Riter III, Brenda Pejovich, and Robert Shephard), plus other employees at THECB (e.g., Dr. Joe Stafford, Linda McDonough, Sandra West Moody[?] -- to be contacted via defense counsel)

14. Mary Smith, ICRGS Admissions Secretary (ICRGS admissions, probably by business records affidavit, e.g., providing a summary of ICRGS applicants who were turned away, after April 2008, due to them being Texas residents)

15. Dr. Eddy Miller, ICRGS dean (e.g., ICRGS administrative matters, perhaps via business records affidavit)

16. Dr. Jack Kriege, Registrar (probably by business records affidavit)

17. *Lawrence Ford, Executive Editor (probably by business records affidavit, perhaps including opinions Christian journalism, Christian education, Christian ministry, totalitarian government-imposed restraints on free speech and other aspects of communication censorship)

18. others named in defendants' disclosures (e.g., evolutionist experts Gerald Skoog, David Hillis, C.O. "Pat" Patterson, Barbara Curry, Daniel Foster)

19. *Brian Thomas (science education in Christian and secular education contexts, became a student formerly a student of ICRGS in California, experience teaching at Christian schools)

20. *Bruce Wood (science education in Christian and secular education contexts, became a student formerly a student of ICRGS in California, experience as docent/guide at ICR's science museum in California)

21. Any witness listed or called by defendants.

II.

Testimony, likely including mixed-fact-and-opinion testimony, may also be provided by any of the above-named witnesses with respect to the following books and DVDs,¹ --- especially as to those books and/or DVDs which were authored, co-authored, other otherwise featured a particular witness named above (e.g., Dr. Austin may testify about any of his Grand Canyon books and/or about his Mount St. Helens DVD; Frank Sherwin may testify about his book *The Ocean Book* in conjunction with him testifying about his teaching at the postsecondary level; etc.).

1. Frank Sherwin, The Ocean Book
2. Frank Sherwin, Gary Parker, et al., God of Wonders
3. John Morris, The Geology Book
4. John Morris, The Young Earth (revised ed.)
5. Steve Austin, Grand Canyon, Monument to Catastrophe
6. Steve Austin, Geologic Evidences to the Very Rapid Strata Deposition in the Grand Canyon DVD
7. Steve Austin, John Morris, et al., Grand Canyon: Monument to the Flood DVD
8. Larry Vardiman, et al., Radioisotopes and the Age of the Earth, vols. 1 & 2

¹ Many of these books and DVDs will be listed as trial exhibits, as ICRGS's witnesses are likely to allude to many of those documents in connection with providing fact testimony and/or expert opinion testimony. The box containing copies of these books and DVDs was mailed on 12-3-AD2009, via CMRRR # 7008-1830-0000-3754-2109, to defense attorney Dahlberg.

9. Larry Vardiman, et al., RATE [Radioisotopes and the Age of the Earth] Premier Conference DVD
10. John Morris & Steve Austin, Footprints in the Ash
11. John Whitcomb & Henry Morris, The Genesis Flood²
12. ICR (Patti Nason et al.), Origin of Life Teacher Resources (DVD & classroom materials)
13. Henry Morris, Scientific Creationism
14. Larry Vardiman, A New Theory of Climate Change
15. Larry Vardiman*, Climate Changes Before and After the Genesis Flood
16. Larry Vardiman*, et al., Global Warming DVD
17. John Morris* et al., The Mysterious Islands DVD
18. John Morris*, et al., A Walk Through History DVD
19. Duane Gish, Evolution: The Fossils Still Say No!
20. Christine Dao, Thinking God's Thoughts After Him³
21. Donald DeYoung, et al., Thousands Not Billions (book, study guide, & DVD)
22. Steve Austin, et al., Mount St. Helens Explosive Evidence for Catastrophe DVD
23. 13 DVDs used by Dr. Austin to teach ICRGS's course *Natural Disasters* (GE 501).⁴

² This classic 1961 treatise on the worldwide Flood (i.e., the flood summarized in Genesis chapters 6-9, and alluded to by Christ Himself in Luke 17:26-27 and Matthew 24:37-38), is regarded by many as the primary catalyst for the modern-day revival in young-earth creationist science and science education. Its co-author, the late Dr. Henry Morris (II), founded ICR about 40 years ago, and ICRGS in 1981. Due to his death, others (e.g., his sons Dr. Henry Morris III and Dr. John Morris, as well as Dr. Patricia Nason, Dr. Steve Austin, etc.) will testify about this book's message and its relevance to the institutional viewpoint of ICRGS, especially as related to ICRGS's *Master of Science* program in Science Education.

³ This book provides illustrations of how the foundations of modern science were dominated by scientists who held beliefs that today would be called "Biblical creationist" in viewpoint.

⁴ which involves usage of the DVDs for Modules 1-9, 10a, 10b, 10c, and Module 2 appendices.

III.

It is not expected that defendants will challenge the fact that ICRGS has --- since April of 2008 --- turned away some applicants who sought admission to ICRGS's M.S. program, due to those applicants being Texas residents. However, if this fact is challenged, ICRGS may rebut that challenge by providing testimony from Texas-residents applicants, e.g.:

1. Katherine Cloud (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
2. Lawrence Ledbetter (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
3. Bob Sands (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
4. Hai Nguyen (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
5. Joseph Rhodes (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);

6. Lu Human (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
7. Carroll Dase (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
8. Bill Wright (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
9. Gabriel Hernandez (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
10. Michael Wofford (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
11. Michal Sorrells (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
12. Amanda Newkirk (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);

13. David Son (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
14. Melissa Travis (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
15. Dr. Javier Campos (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order);
16. a Ms. Baker (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order); and
17. Daniel Feldbush (Texas resident who inquired about ICRGS's program, contact info to be supplied pursuant to anticipated confidentiality agreement/protective order).

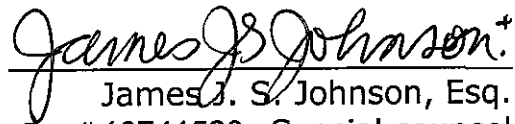
Pursuant to applicable rules ICRGS may supplement / amend this listing.

IV.

All witnesses listed in Part I above are ICR employees. It is not expected that ICRGS will use outside experts. Accordingly, **FRCP Rule 26(a)(2)(B)** is not applicable to ICRGS's anticipated case-in-chief witnesses. (However, if defendants challenge certain aspects of ICRGS's case-in-chief evidence, it may be that ICRGS will seek to use an "outside" witness who may

provide testimony that is a mixed-fact-and-opinion testimony, e.g., Dave and/or Mary Jo Nutting (both of whom are ICRGS graduates; together they operate a creation science ministry in Grand Junction, Colorado, sometimes assisting ICRGS), and/or Dr. John Whitmore (an ICRGS graduate who teaches geology at Cedarville University in Cedarville, Ohio) may be asked to testify in rebuttal.

Respectfully submitted,

James J. S. Johnson, Esq.

Texas Bar # 10741520 Special counsel

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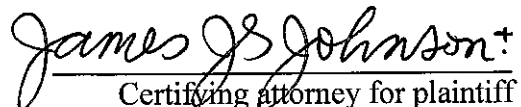
CERTIFICATE REGARDING SERVICE

I hereby certify that on the 7th day of December, A.D. 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following attorney (and thereby to the Texas Attorney General's Office):

Shelley Dahlberg, Esq., Attorney of record for Defendants

Assistant Attorney General, Texas Attorney General's office, General Litigation Div.

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